

SB 85

REVISE UNEMPLOYMENT INSURANCE COLLECTIONS AND INTEGRITY OVERSIGHT LAWS

BY REQUEST OF THE DEPARTMENT OF LABOR AND INDUSTRY

SPONSOR - SEN. EDWARD BUTTREY SD 11

EXHIBIT 1
DATE 2/12/2015
SB 85 CONTACT
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OVERVIEW OF DEPARTMENT'S POSITION *CONTINUED...*

Montana UI has not recovered any debt through TOP because it has yet to implement TOP for any purpose. During the Great Recession, Unemployment Insurance Division resources were focused on processing benefit claims and staying abreast of federal extended unemployment compensation (EUC) changes. Now that Montana's economy is nearing pre-recession levels, the division can broaden its emphasis to improve recovery of UI overpayments and tax debt.

Debt recovery through TOP will be a worthwhile investment. The Division has used the state tax offset program, administered by the Montana Department of Revenue (DOR), to recover hundreds of thousands of dollars in unpaid UI tax and benefit overpayment debt over the years. In CY 2014, 4% (\$440,135.14) of our UI benefit debt recovery came from state tax offsets. In FY2014, state tax offsets comprised 1.39% (\$121,218.92) of the UI tax debt recovery.

Who benefits from this legislation? Employers will benefit when UI debt is recovered through the federal offset program because their contribution rates are tied to the ratio of UI Trust Fund Balance to Total Covered Wages; as that ratio improves, employer contribution rate schedules drop and the average tax rate goes down. Employers have long been concerned with fraud and abuse in the UI system. Implementation of TOP's UI benefit debt recovery program will demonstrate the division's commitment to enhancing the integrity of its program. Recovering delinquent employer tax contributions will "level the playing field" for those employers who pay their tax when due. Claimants also benefit when UI debt is recovered because it assures that benefits are paid only to those who are qualified under the law and recovery debt, whether due to benefit overpayments or delinquent taxes, strengthens the UI Trust Fund.

2. LUMP SUM BENEFIT RECOVERY

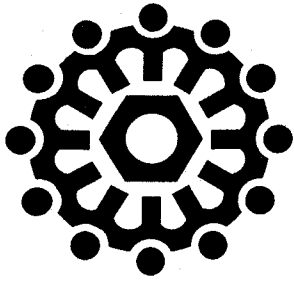
This legislation will also allow the UI program to recover a large portion of a debt quickly rather than receive a minimal monthly payment over the course of many years. Current Department collection options include benefit payment offset, lien against real property, state tax offset, and collection through contract agreement with customer. This provision gives the agency one more tool to be used in overpayment recovery.

Why is this legislation important/necessary? The current statute does not recognize lump-sum settlements as recovery option. USDOL views an Offer in Compromise is an acceptable recovery tool in limited, specific situations. In April, 2013, the UI Division informally implemented a lump-sum settlement policy. That policy applies to non-fraud benefit overpayment debt of \$5,000 or more. To date, contracts for three Lump Sum settlements have been signed. The average settlement percentage was 63%; Original Debt Total = \$46,810.00; Lump-sum Payments Total = \$29,563.39; Total Debt Waived = \$17,238.10.

Who benefits from this legislation? The claimant benefits from this legislation because the debt is reduced and quickly resolved. Montana employers and the UI Trust Fund benefit because the lump-sum payment is put into the Trust Fund soon after the debt is assessed, as opposed to the trickle of small amounts over a span of years. Additionally, interest begins accruing in the Trust Fund upon deposit of the lump-sum payment. Finally, the expense of UI staff processing and mailing monthly statements for months or years is avoided.



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SUMMARY OF CHANGES OR ACTUAL AMENDMENT LANGUAGE

Section 1: Moves language in current law regarding use of the federal Treasury Offset Program (TOP) for Unemployment Insurance Tax debt from 39-51-3206, the “collection of benefit overpayments” statute [page 3, line 21] to 39-51-1307, the “collection of unpaid taxes, penalties, and interest by offset” statute [page 1, line 27 to page 2, line 1].

Section 1 also eliminates the fraud-based tax debt restriction [page 3, lines 21-22] and specifies that the costs to recover employer debts through TOP will be charged to the employer/debtor [page 2, lines 2-3].

Section 2: Includes costs or processing fees for obtaining an offset as part of a UI benefit debt [page 2, line 20]; adds failure to report earnings to the definition of covered UI benefit debt for purposes of the federal offset program [page 3, lines 16-23]; and removes the restriction that a benefit debt sent to TOP could not be more than 10 years old [page 3, line 19].

Section 2 also clarifies that the UI Division has authority to enter into lump-sum settlements for benefit overpayments when no fraud or other misrepresentations have occurred, at least 50% of benefit overpayment debt is paid, and forgiveness of the remainder is contingent on the claimant-debtor not making a false claim or misrepresentation or failing to disclose a material fact in a claim for unemployment within two years of the lump-sum repayment [page 2 line 24 – page 3, line 1].

Section 3: Establishes a July 1, 2015 effective date.

Section 4: Applies these changes retroactively to debts incurred on or before the effective date.

OVERVIEW OF DEPARTMENT'S POSITION

1. TREASURY OFFSET PROGRAM COLLECTIONS

Currently, state law only authorizes the Unemployment Insurance Division to use the federal Treasury Offset Program (TOP) to divert federal income tax refunds for payment of UI tax, penalties and interest or benefit overpayment debt and penalties *arising from fraud*. This bill expands state authority for federal offset participation to include:

- a. Benefit overpayments due to a claimant's failure to report earnings (whether fraudulent or not); and
- b. Non-fraudulent unpaid employer contributions.

Why is the legislation needed? Congress recently broadened TOP's scope to permit offset for non-fraud UI tax debt and benefit overpayments arising from a claimant's failure to report earnings. The Bipartisan Budget Act amended section 303 of the Social Security Act to require states, as a condition for receipt of federal grants to administer their UI program, to use TOP to recover UI debt. Conforming legislation must be enacted in 2015.

With the elimination of the fraud restriction on benefit overpayment and tax debt collections referable to TOP, Montana needs to amend its law to get the full benefit of TOP participation. Separating the TOP UI tax debt collection authority from the TOP UI benefit debt collection statute is logical so the respective authorities are housed in the appropriate section for each debt type.

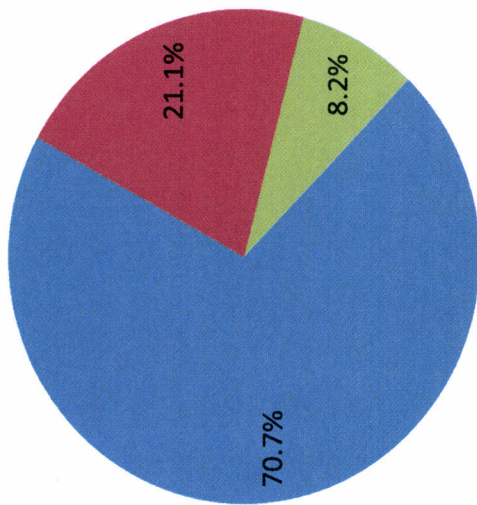
In FY2014, 41 states and the District of Columbia offset nearly 335,000 UI debts totaling almost \$370 million. With the exception of the \$2.8 million recovered by the state of California for UI tax debt, the rest of the offsets were for UI benefit overpayments.



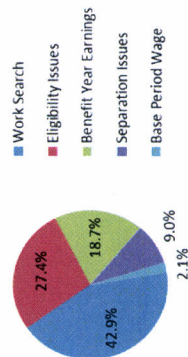
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Unemployment Insurance Benefit Overpayment Composition SFY ending June 30, 2014

■ NON-FRAUD
■ PAYCARD FRAUD
■ FRAUD



Causes for Overpayment SFY ending June 30, 2014

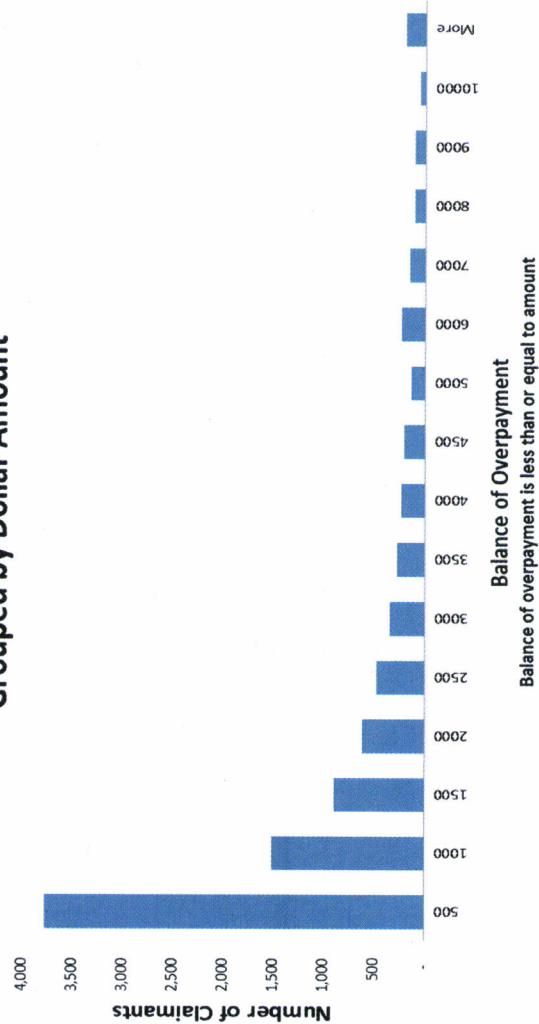


NON-FRAUD: Overpayments not due to willful misrepresentation by the claimant.

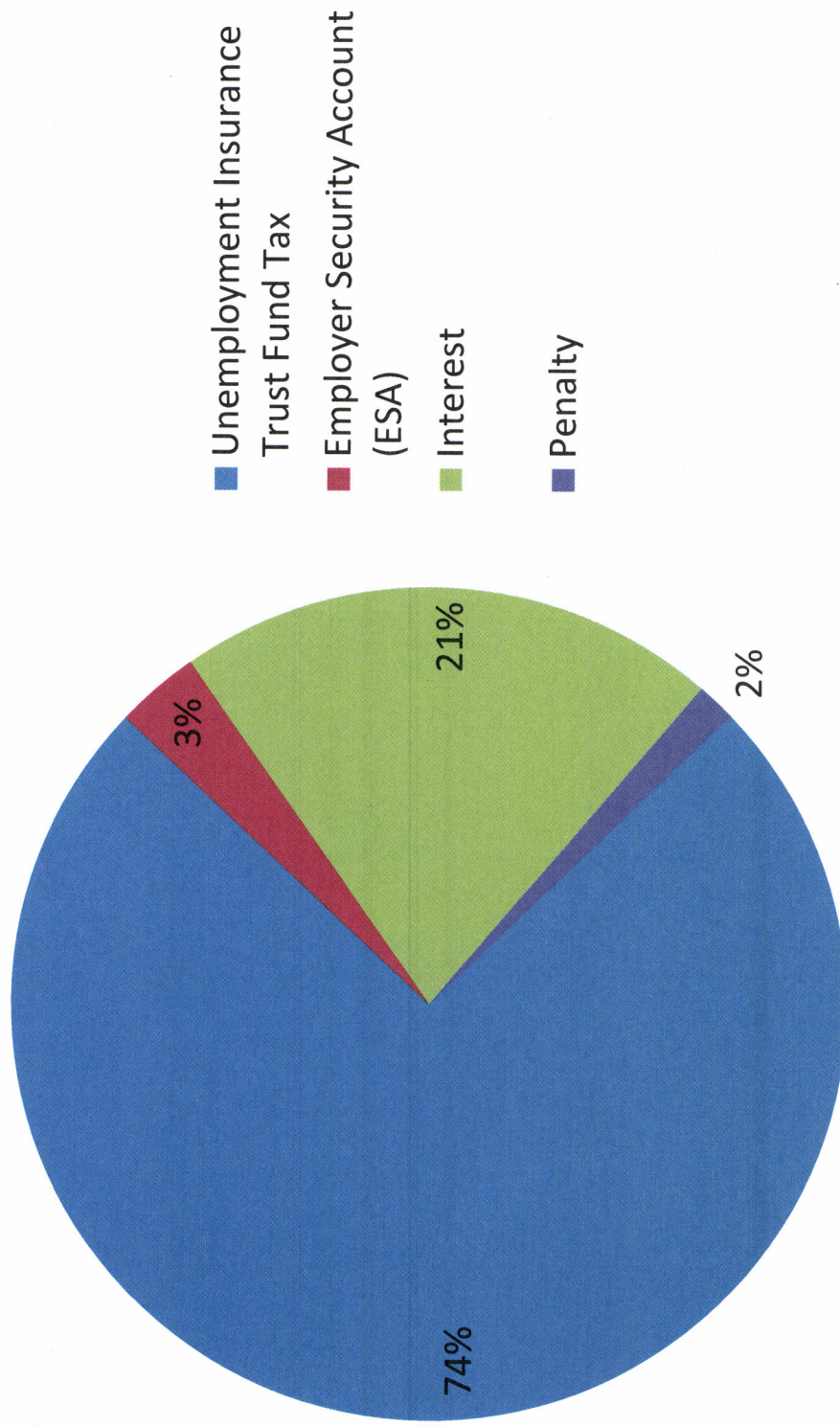
FRAUD: Overpayments resulting from disqualification or reduction in benefit payments due to discovery of a claimant's false statement or failure to disclose material facts.

PAYCARD FRAUD: Overpayments resulting from issues identified in the investigation of weekly payment requests made by the claimant.

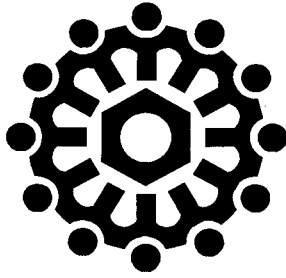
Unemployment Insurance Benefit Overpayments Grouped by Dollar Amount



Breakdown of Unemployment Insurance Employer Accounts Receivable



TOP OFFSET COLLECTION SPREADSHEET					
UI Benefits Recovery -- (TOP)			State Income Tax Recovery -- TOP		
(10/1/2013-9/30/2014)			(10/1/2013 - 9/30/2014)		
State Name	Date Implemented	Offset Count	Net Collection Amount	Offset Count	Net Collection Amount
Alabama (AL)	February 9, 2012	7,960	5,844,919.16	74,553	23,697,321.08
Alaska (AK)	SBR FY14				
Arizona (AZ)	March 1, 2012	19,288	11,079,208.01	15,123	6,038,955.90
Arkansas (AR)	June 15, 2012	14,484	7,981,142.09	5,044	4,468,373.29
California (CA)	January 13, 2013	3,345	2,814,085.34	56,526	56,070,307.83
Colorado (CO)	January 13, 2013	2,097	2,311,040.96	16,330	9,595,345.24
Connecticut (CT)	March 22, 2012	3,646	2,872,418.93	10,682	7,726,510.09
Delaware (DE)	May 1, 2013	1,024	1,422,906.53	4,215	2,478,847.78
Florida (FL)	January 13, 2013	5,299	4,608,025.14		
Georgia (GA)	June 4, 2012	7,402	9,694,091.61	60,723	37,502,834.46
Hawaii (HI)	May 1, 2013	72	70,104.93	795	850,104.72
Idaho (ID)	January 1, 2013	2,977	4,009,514.55	2,131	1,638,066.20
Illinois (IL)	February 3, 2012	18,459	29,698,515.58	64,676	29,579,350.22
Indiana (IN)	SBR FY14			23,208	9,677,275.92
Iowa (IA)	September 1, 2013	83	192,456.78	9,553	5,478,346.08
Kansas (KS)	Implementing			15,832	8,110,821.80
Kentucky (KY)	February 13, 2013	7,260	6,389,029.99	17,378	12,581,399.61
Louisiana (LA)	March 30, 2012	4,757	8,515,255.93	46,504	25,974,209.44
Maine (ME)	March 1, 2014	720	503,601.65	4,096	3,391,571.01
Maryland (MD)	January 4, 2012	10,155	12,188,349.03	61,307	55,211,494.12
Massachusetts (MA)	Implementing			14,971	8,477,501.96
Michigan (MI)	April 26, 2011	1,468	3,300,787.59		
Minnesota (MN)	September 7, 2012	5,761	10,146,102.68	10,168	7,450,638.50
Mississippi (MS)	January 27, 2012	14,048	7,337,207.40	24,876	10,253,877.91
Missouri (MO)	January 13, 2013	11,045	12,951,727.16	41,620	23,791,881.06
Montana (MT)				777	596,196.97
Nebraska (NE)	February 1, 2013	4,655	2,925,034.46	2,081	995,295.67
Nevada (NV)	February 1, 2013	1,044	1,826,688.65		
New Hampshire (NH)	October 2, 2012	1,722	1,359,715.24		
New Jersey (NJ)	May 1, 2013	25,586	48,017,987.85	30,062	17,756,082.92
New Mexico (NM)	January 1, 2014	5,163	7,480,009.18	4,669	3,807,880.42
New York (NY)	February 8, 2011	27,632	29,214,258.34	73,590	58,606,097.04
North Carolina (NC)	January 13, 2013	21,511	14,861,343.66	10,601	5,149,488.70
North Dakota (ND)	June 13, 2013	181	293,989.24	738	265,663.09
Ohio (OH)	March 1, 2013	22,865	36,722,766.64	26,267	21,978,324.14
Oklahoma (OK)	Implementing			18,024	13,022,416.59
Oregon (OR)	July 1, 2013	4,419	6,492,019.46	20,352	13,604,632.15
Pennsylvania (PA)	February 8, 2011	16,983	21,453,341.54	24,893	13,794,374.42
Rhode Island (RI)	February 1, 2014	1,032	597,249.28	2,569	1,719,703.79
South Carolina (SC)	December 7, 2012	11,205	11,501,542.97	6,085	5,304,668.78
South Dakota (SD)	March 26, 2012	637	411,846.75		
Tennessee (TN)	July 2, 2012	11,672	9,495,397.68		
Texas (TX)					
Utah (UT)	January 13, 2013	4,581	4,674,031.15	2,776	1,826,707.64
Vermont (VT)	February 1, 2013	1,062	789,684.80	1,492	939,365.58
Virginia (VA)	Implementing			14,873	10,091,443.74
Washington (WA)	March 1, 2013	10,400	9,735,185.12		
West Virginia (WV)	March 21, 2012	2,028	1,654,951.32	13,645	11,243,133.90
Wisconsin (WI)	February 15, 2011	13,000	11,140,898.23	8,591	9,717,118.87
Wyoming (WY)					
Dist of Columbia	April 10, 2012	6363	6,123,053.20	7,286	5,870,488.73
Virgin Islands	Implementing				
Puerto Rico					
Totals:		335,091	370,701,485.80	849,682	546,334,117.36
UI Recovery data implementation dates from fiscal.treasury.gov website					
UI and State income tax recovery data from Issue 13 - 1st Quarter FY2015					



FACTS AND FIGURES

FOR MORE INFORMATION

uid.dli.mt.gov

FILE YOUR UNEMPLOYMENT INSURANCE CLAIM:

ui4u.mt.gov

FOR EMPLOYERS:

uieservices.mt.gov

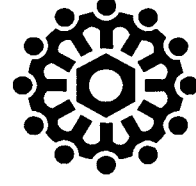
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STATE FISCAL YEAR 2013

July 1, 2012 to June 30, 2013

STATE FISCAL YEAR 2014

July 1, 2013 to June 30, 2014



Montana Department of
LABOR & INDUSTRY
Unemployment Insurance Division

Claims for Unemployment Insurance in Montana have decreased in each of the past four years in direct relation to Montana's improving economy and falling Unemployment Rate. As a result, the trust fund balance is nearly back to pre-recession levels and the UI tax rate schedule has dropped three rates in the last two years. Improved integrity efforts are a major priority moving forward and include fraud detection efforts, overpayment collections and a refined focus on customer service for Montana's residents.

MT - UNEMPLOYMENT RATE (SEASONALLY ADJUSTED)

as of November 2013	as of November 2014
5.4%	4.3%

MT - LABOR MARKET INFORMATION

	SFY 2013	SFY 2014
MT total labor force	508,576	527,336
Total employed	481,499	503,278

UNEMPLOYMENT INSURANCE CLAIMS

	SFY 2013	SFY 2014
Number of claims filed	91,991	80,093
Number receiving benefits	45,260	37,132

UI - WEEKLY BENEFIT AMOUNTS

	SFY 2013	SFY 2014	SFY 2015
Average weekly benefit	\$282	\$297	--
Minimum weekly benefit	\$127	\$132	\$134
Maximum weekly benefit	\$446	\$464	\$471

UI - TRUST FUND

	SFY 2013	SFY 2014
UI Trust Fund balance	\$177,979,502	\$229,915,553
Contributions paid	\$154,330,933	\$151,065,218
Active employer accounts	37,046	37,788

UI - TAX INFORMATION

	CY 2013	CY 2014	CY 2015
Rate Schedule in effect	6	5	3
Taxable Wage Base	\$27,900	\$29,000	\$29,500

UI - BENEFIT PAYMENTS

	SFY 2013	SFY 2014
Regular UI (State UI Trust Fund)	\$138,764,667	\$125,389,182
EUC*	\$40,784,937	\$9,621,167
Benefit Payments all programs	\$179,549,604	\$135,010,349

* EMERGENCY UNEMPLOYMENT COMPENSATION - FEDERALLY FUNDED PROGRAM NO LONGER IN EFFECT AS OF CY 2015.

UI - OVERPAYMENTS (FRAUD & NON-FRAUD)

	SFY 2013	SFY 2014
Regular UI - Overpayments established	3.7%	3.1%
EUC - Overpayments established	5.3%	7.6%
Total Recovered - Regular UI & EUC	\$3,526,450	\$3,124,145

PERCENTAGES REFLECT THE AMOUNT OF BENEFITS PAID WHICH WERE ESTABLISHED AS FRAUD & NON-FRAUD OVERPAYMENTS.